

**COMMONWEALTH OF KENTUCKY  
KENTUCKY BOARD OF TAX APPEALS  
FILE NO. K06-S-47**

**DAVID AND FLORA KUCHLE**

**APPELLANTS**

**V.**

**ORDER NO. K-19823**

**BOONE COUNTY PROPERTY  
VALUATION ADMINISTRATOR**

**APPELLEE**

The Kentucky Board of Tax Appeals delegated authority to a hearing officer pursuant to KRS 13B.030. The hearing officer entered a recommended order in compliance with the provisions of KRS 13B.110. No exceptions or objections to the recommended order were filed. The Board has reviewed the record and the recommended order.

The Kentucky Board of Tax Appeals conducted a hearing in this matter on January 12, 2007 in Burlington, Kentucky and made the following findings of fact, conclusions of law and recommended disposition.

**FINDINGS OF FACT**

This assessment appeal is for real property located at 1217 Beaver Road., Walton in Boone County. The Boone County Property Valuation Administrator assessed the property at \$402,200.00. The taxpayer or Appellant values the property at \$238,000.00. The Boone County Board of Assessment Appeals valued the property at \$304,000.00. The Appellants filed a timely appeal from the local board with the Kentucky Board of Tax Appeals.

The Appellant offered the following evidence in support of Appellant's appeal: Mr. Kuchle said he was assured that the "agricultural option provision applies to the useful income potential of the land and building assessed" by talking to Mr. Bill Yancy and Mr. Tom Crawford. Mr. Kuchle noted "only half of our farm has income potential from agricultural". He maintains that "the agricultural value should be \$42,000 instead of \$84,000".

Mr. Kuchle states neither of the barns "are in good shape". He maintained "these two buildings should be \$24,000 instead of the \$50,000".

Mr. Kuchle stated he and his wife have "lived on and worked this farm for more than 43 years" and are "mostly retired". The Kuchles wish to keep their property for their children and grandchildren.

Mr. Jeff Smith, representing the Boone County PVA Office did not cross-examine Mr. Kuchle and requested to move forward with the hearing presenting comparables.

Mr. Smith called Mr. Charles Merrell to testify who is a field staff supervisor who has "done all reassessment in Boone County on the farms". It was noted by Mr. Smith a prehearing compliance statement was not filed, but provided at the local board meeting. The hearing officer noted the absence of the statement and the poor presentation of the materials.

Mr. Merrell presented comparable beginning with 350 Maher Road (at \$103 square foot), 3 Willowood Lane (\$82 square foot), and 18 Willowood Lane (\$83 square foot). He contends the subject property is assessed at \$65 square foot noting some deductions for items such as sewage and city water.

Mr. Merrell also tried to find comparables for home using comparable at 29 Edwards Avenue (\$79 square foot), 15 Edwards Avenue (\$62 square foot), and 34 Needmore Street (\$55 square foot). The subject property was valued at \$45 square foot using deductions.

Mr. Merrell also discussed the barns which he noted were “rundown”. Another barn was appreciated at \$6,665 with major depreciation, because “you could tell the wear and tear on it”. The “second barn” is a steel structured barn with 8400 square feet which is “well constructed” assessed at \$84,000. The third barn is 1200 square feet, “a dome-type shop” valued at \$14,436 with forty (40) percent depreciation. According to Mr. Merrell, the other barns were shown with no value. Collectively, the assessment involves five buildings: two houses and three barns.

Mr. Merrell testifies the land was put on an agricultural value. He notes 50 percent of the property is wooded. He notes the land to be “pasture land” at \$300 per acre rather than crop land at \$500 per acre. But the property was “averaged at \$300” with a farm taxable value at \$84,000.

The “residential land” was broken with “a half acre with one house” and “a half acre off the other house” and “valued at 100 percent fair cash value, according to Mr. Merrell.

Mr. Kuchle cross examined Mr. Merrell about the differences in his house comparable to the “conveniences of being in the city”. Mr. Kuchle questioned the PVA’s knowledge of the little house’s foundation is crumbling. Mr. Merrell noted there was never notification of the problems with the house in their previous meetings and the building is livable.

The hearing officer noted the burden of proof is with the Appellant. The officer noted the comparable are within three miles of the subject property. Also, through questioning, Mr. Merrell states there is not a sale of a farm for comparable value, because “there’s no farms sold for farming no more in Boone County”.

In his closing comments, Mr. Kuchle notes his house involves a driveway with 450 feet elevation. He contests the assertion the barn is a “commercial metal building” and his shop has a sloped side wall which is “undesirable”. He states his property “has to be compared” to a “willing buyer”.

Mr. Smith notes “the comparables are not on a farm much like the Kuchle’s farm”, but lower values were assessed to the subject property with depreciation for the barns.

It is the finding of this hearing that the Appellant did not fully sustain his burden of proof regarding his challenge to the final order of the Boone County Board of Assessment Appeals.

Based upon the evidence in the record, it is the finding of this hearing officer, Bill Beam, Jr. the fair cash value of the property in question as of January 1, 2006 is \$304,000.00.

### **CONCLUSIONS OF LAW**

The Kentucky Board of Tax Appeals is vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of the Boone County Board of Assessment Appeals pursuant to KRS 131.340(1).

The function of the Board is not simply to review the action of the Boone County Board of Assessment Appeals, but to try anew the issues as presented. *Jefferson County Property Valuation Administrator v. Oxford Properties, Inc.*, Ky.App., 726 S.W.2d 317, 319 (1987). See KRS 131.340(1).

Section 172 of the Kentucky Constitution mandates that “all property shall be assessed for taxation at its fair cash value, estimated at the price it would bring a fair voluntary sale.”

The choice of the most appropriate and reliable approach to valuation is within the prerogative of the Board. *Jefferson County Property Valuation Administrator*, 726 S.W.2d at 319.

Regardless of the manner or method used by the Property Valuation Administrator or the decision of the Kentucky Tax Board of Appeals, the finding of valuation must be at its fair cash value, estimated at the price it would bring at a fair voluntary sale. *Helman v. Kentucky Board of Tax Appeals*, Ky.App., 554 S.W.2d 889 (1977).

As the party proposing that the Kentucky Board of Tax Appeals set aside the decision of the Boone County Board of Assessment Appeals, the Appellants have the burden of proving a lower value. KRS 13B.090(7).

If the property is sold at or near the assessment date in a fair and voluntary sale, the sale price is usually the best evidence of the property's fair cash value. *Sears, Roebuck & Company v. Boone County Board of Assessment Appeals*, Ky.App., 715 S.W.2d 888, 889 (1986).

### **RECOMMENDED ORDER**

It is recommended that the July 26, 2006 final ruling of the Boone County Board of Assessment Appeals be upheld and the real property be assessed at a fair cash value of \$304,000.00 as of January 1, 2006.

Each party shall have fifteen (15) days from the date any recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party.

### **FINAL ORDER**

The Kentucky Board of Tax Appeals has considered the record and accepts the recommended order of the hearing officer, and adopts it as the Board's final order. Failure to file exceptions to an administrative hearing officer's recommendations after a hearing constitutes a failure to exhaust administrative remedies and precludes appellate review. *Swatzell v. Natural Resources and Environmental Protection Cabinet*, Ky App 962 SW 2d 866 (1998).

It is ordered the July 26, 2006 final ruling of the Boone County Board of Assessment

Appeals be upheld and the real property be assessed at a fair cash value of \$304,000 as of January 1, 2006.

The following information is provided pursuant to the final order requirements of KRS Chapter 13B:

This is a final and appealable order. All final orders of this agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

A petition for judicial review shall not automatically stay a final order pending the outcome of the review, unless:

- (a) An automatic stay is provided by statute upon appeal or at any point in the administrative proceedings;
- (b) A stay is permitted by the agency and granted upon request; or

(c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

Within twenty (20) days after service of the petition of appeal, or within further time allowed by the Circuit Court, the Kentucky Board of Tax Appeals shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review in compliance with KRS 13B.140(3).

**DATE OF ORDER  
AND MAILING: May 1, 2007**

**FULL BOARD CONCURRING.  
KENTUCKY BOARD OF TAX APPEALS**

**NANCY MITCHELL  
CHAIR**